

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

January 4, 2010

Charles R. Fulbruge III
Clerk

No. 09-30265

Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

RAYMOND JOSEPH HAWTHORNE, JR., also known as Tweet,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 6:99-CR-60043-2

Before BENAVIDES, PRADO, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Raymond Joseph Hawthorne, Jr., federal prisoner # 330242, was sentenced to 235 months in prison following his plea of guilty to conspiring to distribute cocaine base (crack). Following amendments to the Sentencing Guidelines that lowered the offense levels for crack cocaine offenses, the district court granted a motion by Hawthorne pursuant to 18 U.S.C. § 3582(c)(2) and reduced his sentence to 188 months of imprisonment. Hawthorne now appeals, challenging the limits on the district court's discretion set forth in U.S.S.G.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

§ 1B1.10 and arguing that the district court had the authority to impose an even lower sentence. Hawthorne's arguments are foreclosed in light of our recent decision in *United States v. Dublin*, 572 F.3d 235, 236-39 (5th Cir. 2009), *petition for cert. filed* (Sept. 21, 2009) (No. 09-6657).

Hawthorne also argues that his § 3582 motion for a reduction of sentence required a hearing with him present. Because the district court "merely modifie[d] an existing sentence" rather than impose a new sentence after the original sentence had been set aside, Hawthorne was not entitled to a hearing. *See United States v. Patterson*, 42 F.3d 246, 248-49 (5th Cir. 1994); FED. R. CRIM. P. 43.

Accordingly, the judgment of the district court is AFFIRMED.